

**CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH**

Original Application No.50/2007
This the 07th day of February 2008

HON'BLE MR. M. KANTHAIAH, MEMBER JUDICIAL.

Ganesh Prasad Asthana, aged about 52 years, S/o Late Sri K.B.
Asthana R/o 3/33, Vishal Khand-3, Gomti Nagar, Lucknow.

...Applicants.

By Advocate: None.

Versus.

1. Union of India through its Chairman, Railway Board, Rail Bhawan, New Delhi.
2. General Manager, N.E. Railway, Gorakhpur.
3. Financial Advisor and Chief Accounts Officer, N.E. Railway, Gorakhpur.

... Respondents.

By Advocate: Shri S.M.S. Saxena.

ORDER

BY MR. M. KANTHAIAH, MEMBER JUDICIAL.

None for applicant. Heard Shri S.M.S. Saxena, the learned counsel for the respondents.

2. The applicant has filed this OA to issue direction to the respondent authorities for payment of interest @ 18% with penal

interim on the delayed payment of Pension and its arrears w.e.f. 04.02.1972 as sanctioned vide P.P.O. dated 30.04.2001 Annexure-5 to his deceased father Late K.B. Asthana.

3. The respondents have filed Preliminary objections on the ground that father of the applicant Late K.B. Asthana filed an O.A.No.356/2000 on the file of this Tribunal for grant of pension and arrears thereof. But subsequently, it was dismissed as infructuous. Subsequently, he also filed M.P.No.1214/2003 in O.A.No.2356/2000 but the same was also dismissed on 12.09.2003 as withdrawn with a liberty to file Review application and as such the present application filed by the applicant, who is one of the son of the deceased not at all maintainable. Further also taken objections that the applicant has not filed succession certificate in respect of the claim of interest of his deceased father and further all other legal heirs of his deceased father have not been made as party thus, they prayed for dismissal of OA.

4. Heard both sides.

5. The point for consideration is whether the applicant is entitled for the relief as prayed for.

6. The admitted facts of the case are that the father of the applicant Late K.B. Asthana, who retired from the post of Inspector of Cashiers on 03.02.1972. When there was delay of sanction of pension for about 29 years Late K.B. Asthana filed O.A.No.356/2000 for grant of Pension. After exchange of pleadings there was representation from the applicants counsel that the relief claimed by the applicant has been granted by the respondents. Upon which, the said OA has been dismissed as infructuous. He also filed M.P.No.1214/2003 for modification of the judgment regarding interest but the same was also

dismissed with a liberty to file Review application. Annexure-A-2 is the copy of the OA. Annexure-4 is the copy of Counter Affidavit and Annexure-6 is the copy of judgment dated 18.02.2002 passed in O.A.No.356/2000, whereas Annexure-9 is the copy of dismissal order of M.P.No.1214/2003 passed in O.A.No.356/2000. Thereafter, after the death of Late K.B. Asthana, the applicant who is his one of the son filed this O.A. claiming interest on delayed payment of retrial payments of the pension paid to his father.

7. In respect of the claim of interest on delayed payment of pension, there was no order from this Tribunal in earlier O.A.No.356/2000, which was filed by Late K.B. Asthana for release of his pension arrears. Further he himself withdrawn the earlier OA on the ground that the respondents have released his pension and pension arrears and thus it become infructuous and he also filed M.P.No.1214/2003 for modification of the order passed in O.A.No.356/2000 regarding interest on such delayed payment but the same was also dismissed on 12.09.2003 with a liberty to file review application but without filing any such review application one of the son of the deceased Late K.B. Asthana filed this O.A. claiming the same relief in respect of interest on arrears of pension amount. When once such claim was made by his deceased father and when it was not allowed by the tribunal, it is not open to the applicant to reagitate on the same claim and which is nothing but Principle of Res-judicata comes into play. Admittedly, the applicant is one of the son whereas, his father leaving behind three sons including the applicant and they have not joined as party in this OA and also not filed any succession certificate in respect of the claim of interest payable to his deceased

father, even on this ground also the claim of the applicant is not at all maintainable.

In the result, OA is dismissed. No costs.


(M. KANTHAIAH)
MEMBER (J)

07-02-2008

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